



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
726 MINNESOTA AVENUE
KANSAS CITY, KANSAS 66101

DEC 26 1996

CERTIFIED MAIL Z 203 264 622
RETURN RECEIPT REQUESTED

Mr. Jeff Nielsen
Director of Operations
Pennfield Animal Health
14040 Industrial Road
Omaha, NE 68144

Dear Mr. Nielsen:

RE: Claim for Confidential Business Information
Pennfield Animal Health
Omaha, Nebraska
RCRA ID No. NER000000448

Request for Information

This letter is in follow-up to your confidentiality request regarding information collected during the Environmental Protection Agency's (EPA's) November 1996 inspection of the Omaha facility. EPA is hereby notifying you that we will be making a final confidentiality determination concerning Pennfield Animal Health (Pennfield's) November 6, 1996, claim of confidentiality for materials obtained by EPA during the inspection on that date. In addition, Mr. Kelly Dahl, an attorney representing Pennfield, requested for Pennfield a copy of the inspection report prepared as a result of our November 6, 1996, inspection. The enclosure also serves to comply with that request.

Enclosed are copies of the documents which EPA is currently treating as confidential business information (CBI) pursuant to your November 1996 request. The regulations providing both definition of and protection for CBI are contained in Subpart B of Title 40 Code of Federal Regulations (40 CFR) Part 2. The EPA is protecting Pennfield's claim of confidentiality until such time as the Agency makes a final determination on the viability of your claim.

For each item or class of information that you identify in the enclosures as being subject to your claim, please comment on the following issues:

1. The portions of the information which are entitled to confidential treatment;



R00051185
RCRA Records Center



2. The period of time for which you are requesting confidentiality for the information involved;

3. The measures taken by your business to guard against undesired disclosure of the information to others;

4. The extent to which the information in question has been disclosed to others, and the precautions taken by your business in this regard;

5. Whether there has been a confidentiality determination by EPA or other federal agencies (if so, send a copy of such determination or make reference to that determination and agency);

6. Whether you are asserting that the information was voluntarily submitted information, as defined in 40 CFR § 2.201(1) (i.e., information in EPA's possession, the submission of which EPA had no statutory or contractual authority to require) and, if so, whether any disclosure of the information would tend to lessen the availability to EPA of similar information in the future. "Voluntarily submitted information" is defined in 40 CFR § 2.201(1);

7. If you assert that disclosure of the information would be likely to result in substantial harmful effects on the business competitive position, please state what those harmful effects would be, why these effects should be viewed as substantial, and explain the causal relationship between disclosure and harmful effects.

Please note that you bear the burden of substantiating your confidentiality claim pursuant to 40 CFR § 2.208(3). Conclusionary allegations will be given little or no weight in the determination. If relevant facts necessary to the substantiation are themselves confidential, please identify them as such so EPA may maintain their confidentiality pursuant to 40 CFR § 2.205(c). If no such claim is made when information is received by EPA, the information may be made available to the public without further notice.

Your comments must be postmarked or hand-delivered to this office by the fifteenth (15th) working day after your receipt of this letter. You may seek an extension of time to submit your comments. Such a request may be made in writing before the end of this period at the letterhead address. Failure to submit your comments within the specified time will be regarded as a waiver of your confidentiality claim and EPA will be free to release the information.

If you wish to claim your response to this letter as CBI, such a claim may be made by placing on (or attaching to) the information, at

the time of its submittal to EPA, a cover sheet with a stamped or printed legend, or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." Allegedly confidential portions of otherwise non-confidential documents should be clearly identified and may be submitted separately to facilitate identification and handling by EPA.

Information submitted for which a claim of confidentiality has been made will be disclosed by EPA only to the extent and by the means authorized by the procedures specified in 40 CFR Part 2, Subpart B.

Please submit this information within fifteen (15) days of your receipt of this letter to Ms. Lynn Slugantz, U.S. EPA Region 7, ARTD/RPCB, 726 Minnesota Avenue, Kansas City, Kansas 66101. If you have any questions concerning this matter, please contact Ms. Slugantz at (913) 551-7883.

Sincerely,



FOR: William A. Spratlin
Director
Air, RCRA, and Toxics Division

Enclosure

cc: Bill Gidley, NDEQ

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Sincerely,

William A. Spratlin
Director
Air, RCRA, and Toxics Division

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cc: Bill Gidley, NDEQ

bcc: Jennifer Anderson, ARTO



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